

Message Text

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ACTION IO-14

INFO OCT-01 ADP-00 IOE-00 OIC-04 AF-10 ARA-16 EA-11 EUR-25

NEA-10 RSC-01 SSO-00 NSCE-00 USIE-00 INRE-00 CIAE-00

DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-03

PRS-01 SS-15 AID-20 COME-00 EB-11 FRB-02 TRSE-00

XMB-07 OPIC-12 CIEP-02 LAB-06 SIL-01 OMB-01 STR-08

RSR-01 /215 W

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E.O. 11652: N/A

TAGS: ECOSOC

SUBJ: ECOSOC 55-ITEM 9(C)-WEST ASIAN COMMISSION

FOLLOWING IS THEMATIC OUTLINE OF LEGAL POSITION WE INTEND TO TAKE REGARDING WEST ASIAN REGIONAL COMMISSION. ACTION REQUESTED. WOULD APPRECIATE COMMENTS AND ADDITIONS ASAP SINCE INTERVENTION MAY COME FRIDAY A.M.

1. US REGRETS LEBANESE REJECTION OUT OF HAND OF PLEAS OF SEVERAL DELS THAT CONSIDERATION OF ITEM BE POSTPONED
A) NOTE REGID POSITION OF ARAB LEAGUE, MENTIONED BY EGYPTIAN REP., AS FACTOR PREVENTING MUTUAL ACCOMMODATION,
B) US NOT PERSUADED STATES OF REGION WILL SUFFER IRREPAR-
ABLE HARM IF MATTER POSTPONED FOR SHORT PERIOD--STATES
WOULD HAVE CONTINUING SERVICES UNESOB--NO ONE WOULD
OBJECT TO STRENGTHENING UNESOB IN INTERIM (DUTCH POSITON),
C) CREATION OF ORGANIZATION IN FACE OF SUBSTANTIAL DOUBTS
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AS TO LEGALITY EXPRESSED BY THOSE MEMBER STATES WHO ARE

AND WOULD BE MAJOR DONORS IN REGION DOES NOT IMPRESS US
AS BEING A WISE ACTION, D) RES COMPLETELY UNACCEPTABLE
TO US AND US WILL VOTE NO.

2. PROPOSED REC UNCONSTITUTIONAL UNDER CHARTER ART. 2(1)
AND (2), A) EXCLUSION MEMBER STATE IN REGION VIOLATES
PRINCIPLE "SOVEREIGN EQUALITY" ART. (1) (PROponents ADVANCE
NO JUSTIFICATION FOR EXCLUSION), B) "TWELVE ARAB STATES"
GROUPING APPEARS TO BE CLASSIFICATION BASED ON ETHNIC FACTOR
WHICH PATENTLY CONTRARY TO PRINCIPLE "SOVEREIGN EQUALITY",
SEE, E.G. DRAFT DECLARATION OF RIGHTS AND DUTIES OF STATES,
REPORT INT. LAW COMMISSION, 9 JUNE 1949, ART. 5 "EVERY
STATE HAS RIGHT TO EQUALITY IN LAW WITH EVERY OTHER STATE".
(UNJUSTIFIED DENIAL OF MEMBERSHIP IN UN ORGAN TO STATE
MEMBER IN REGION WHILE MEMBERSHIP OPEN TO ALL OTHER STATES
IN REGION UNCONSTITUTIONAL PER SE).

3. EFFECT OF PARA 1 (B) OF RES IS TO PREVENT MEMBER STATE
FROM DISCHARGING CHARTER OBLIGATION: A) PURSUANT ART. 2 (2)
MEMBER STATE HAS OBLIGATION UNDER ART. 56 TO TAKE "JOINT...
ACTION" THROUGH UN ORGANIZATION TO PROMOTE "SOLUTIONS OF INTER-
NATIONAL ECONOMIC, SOCIAL, HEALTH, AND RELATED PROBLEMS..."
ART. 55 (B), B) EXCLUSION OF MEMBER STATE FROM REC PREVENTS
STATE FROM TAKING "JOINT ACTION" WITH OTHER MEMBER STATES
IN REGION TO PROMOTE, ETC. IN CONNECTION WITH BODY
ESTABLISHED BY ECOSOC PURSUANT TO ART.68.

4. REC ESTABLISHED WITH RESTRICTED MEMBERSHIP PREVENTS
EXCLUDED MEMBER STATE OF REGION FROM DISCHARGING OBLIGA-
TIONS SPECIFIED IN GA RES. 290 (IV) 1 DECEMBER 1949.
--EXCLUDED STATE CANNOT "PARTICIPATE FULLY IN WORK OF THE
UNITED NATIONS" AS PARA 9 SUPRA REQUIRES.
--EXCLUDED STATE CANNOT "PROMOTE THROUGH INTERNATIONAL
COOPERATION, EFFORTS TO ACHIEVE AND SUSTAIN HIGHER
STANDARDS OF LIVING FOR ALL PEOPLES" (WHICH INCLUDES ALL
PEOPLE IN REGION) AS REQUIRED BY PARA 7 SUPRA.

5. ADOPTION BY ECOSOC OF RESOLUTION WOULD BE ULTRA-VIRES
THE CHARTER: A) ONLY PROVISION FOR EXCLUSION FROM OR
RESTRICTION OF MEMBER STATE OF UN IS ARTICLE 6 PROVIDING
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FOR COMPLETE EXPULSION BY GA UPON RECOMMENDATION OF SC.
(NOTE ART. 107 NOW OBSOLETE.) NO SUCH POWER TO RESTRICT
OR EXCLUDE IS CONFERRED ON ECOSOC. POWER CONFERRED BY
ART. 68 MUST BE EXERCISED IN CONFORMITY WITH CHARTER,
B) NO LEGAL BASIS IN PRECEDENT FOR PROPOSED ECOSOC ACTION.
--PORTUGAL REFUSED OFFER OF ASSOCIATE MEMBERSHIP IN ECA-
WAS NOT EXCLUDED. ECOSOC EARLIER HAS REFUSED TO DENY MEMBER-
SHIP TO PORTUGAL.

--SA WAS NOT EXCLUDED FROM ECA BUT RATHER WAS SUSPENDED--
SIGNIFICANT DISTINCTION. MOREOVER SAG INFORMED ECOSOC
THAT SAG DECIDED "NOT TO ATTEND ANY ECA CONFERENCES IN
FUTURE NOR TO PARTICIPATE..." ECOSOC DECISION TO SUSPEND
TAKEN ONLY AFTER ANNOUNCEMENT SAG DECISION.

6. EXCLUSION OF MEMBER STATE FROM "REGIONAL ORGANIZATION
WOULD CREATE SERIOUS LEGAL PROBLEMS UNDER FINANCIAL PROVISIONS
OF CHARTER.

--MEMBER STATE BEARING EXPENSES OF UN AND DENIED PARTICI-
PATION IN ORGAN OF UN RAISES SERIOUS ISSUE OF LEGALITY
OF ASSESSMENT AGAINST MEMBER STATE. (ART. 17 (2).

--FUNDING OF AN ILLEGAL COMMISSION FROM REGULAR ASSESSMENT
OF MEMBER STATES RAISES SERIOUS QUESTIONS AS TO POWER OF
GA UNDER ART. 17(1).

7. THERE IS NO PRECEDENT IN THE ESTABLISHMENT OF ALL OTHER
ECONOMIC REGIONAL COMMISSIONS FOR EXCLUSIONARY MEMBERSHIP
PROVISIONS, INDEED FOR EXAMPLE IN THE CASE OF THE ESTAB-
LISHMENT OF THE EUROPEAN ECONOMIC COMMISSION ALL MEMBER
STATES IN EUROPE WERE MEMBERS AS WELL AS THE UNITED STATES
OF AMERICA.

8. THE CREATION OF THIS RESTRICTED ECONOMIC COMMISSION
REPRESENTS A RETROGRESSION AWAY FROM THE PRINCIPLES
OF UNIVERSALITY TO WHICH THIS ORGANIZATION HAS MOST RECENTLY
BECOME UNANIMOUSLY DEDICATED.

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